



# NORFOLK

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June 10, 2014

To the Honorable Council  
City of Norfolk, Virginia

**R-19**

Re: Tax Overpayment  
Tidewater Drive Storage Center, LLC

Dear Ladies and Gentlemen:

Attached please find an ordinance directing the City Treasurer to refund to Tidewater Drive Storage Center, LLC, \$3,030.20 based upon the overpayment of Business License Taxes for the years 2011 through 2013, resulting in a refund due of \$3,030.20, plus interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "B. A. Pishko", written over a horizontal line.

Bernard A. Pishko  
City Attorney

Recommendation: Adopt Ordinance

5/1/14mr

Form and Correctness Approved:

By Michelle Z  
Office of the City Attorney

Contents Approved:

By C. A. L.  
DEPT.

Pursuant to Section 72 of the City Charter, I hereby certify that the money required for this item is in the city treasury to the credit of the fund from which it is drawn and not appropriated for any other purpose.

\$ 3,030.20

Director of Finance

1000-104-010-4101

Account

5/22/14  
Date

NORFOLK, VIRGINIA

BCM

## ORDINANCE No.

AN ORDINANCE DIRECTING THE CITY TREASURER TO ISSUE A REFUND TO TIDEWATER DRIVE STORAGE CENTER, LLC BASED UPON THE OVERPAYMENT OF BUSINESS LICENSE TAXES FOR THE YEARS 2011 THROUGH 2013.

- - -

WHEREAS the Commissioner of the Revenue has determined that business license taxes were erroneously overpaid by Tidewater Drive Storage Center, LLC for tax years 2011 through 2013 and has corrected this assessment in accordance with Virginia Code § 58.1-3981; and

WHEREAS the Commissioner of the Revenue has certified with the consent of the City Attorney that the aforementioned taxpayer paid all taxes due on the erroneous assessment and is entitled to a refund of excess taxes paid based on the corrected assessment in the amount of \$3,030.20, plus interest;

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That \$3,030.20 is hereby appropriated for a refund to Tidewater Drive Storage Center, LLC for tax years 2011 through 2013;

Section 2:- That the Treasurer of the City of Norfolk is hereby directed to refund to Tidewater Drive Storage Center, LLC in the amount specified

above as soon as practicable upon passage of this ordinance.

Section 3:- That this ordinance shall be in effect from and after its adoption.

**Norfolk Commissioner of the Revenue  
Certification and Request for the Refund  
Of Previously Paid Tax to:**

**Tidewater Drive Storage Center, LLC**

**Account Number  
691703/903353**

**April 16, 2014**

**Overview:**

**Tidewater Drive Storage Center, LLC (TDSC)** filed amendments to its 2011 through 2013 **Business Licenses**. TDSC based their business licenses on their total gross receipts. They were not deducting the rental receipts for the storage spaces. In Public Document 97-145, the State Tax Commissioner issued an advisory opinion stating Mini-Warehouse receipts constitute the rental of real estate. Therefore under Virginia Code § 58.1-3703 C 7 owners of real estate are not required to obtain a business license on the gross receipts of rental spaces.

In compliance with **Norfolk Code § 24-7**, the Commissioner of the Revenue's files pertaining to this request are available for inspection by the City Attorney.

**Financial Impact:**

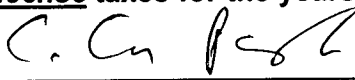
The refund reduces the **Business License** revenue by **\$3,030.20** for fiscal year 2014.

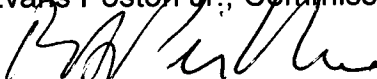
**Conclusion:**

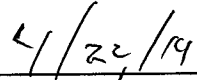
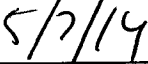
It is recommended that the City Attorney consent to the issuance of the refund and call for City Council to direct the City Treasurer to refund the **Business License** tax overpayment of **\$3,030.20**.

**Certification**

I, C. Evans Poston Jr., Commissioner of the Revenue for the City of Norfolk, certify that TDSC is due a refund in the amount of **\$3,030.20** plus interest as specified by **Norfolk City Code 24-25.3(1)f** due to the overpayment of **Business License** taxes for the years 2011 through 2013.

  
\_\_\_\_\_  
C Evans Poston Jr., Commissioner of the Revenue

  
\_\_\_\_\_  
Bernard Pishko, City Attorney

  
\_\_\_\_\_  
Date  
  
\_\_\_\_\_  
Date